

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SKANGA ENERGY & MARINE LIMITED,

Plaintiff,

v.

AREVENCA S.A., PETRÓLEOS DE
VENEZUELA S.A., and JAVIER GONZALEZ
ALVAREZ,

Defendants.

Case 1:11-cv-04296-DLC-DLF

**AFFIDAVIT OF LAWRENCE H. MARTIN IN SUPPORT OF DEFENDANT
PETRÓLEOS DE VENEZUELA S.A.'S MOTION TO DISMISS**

I, Lawrence H. Martin, hereby depose and swear as follows:

1. I am a partner in the law firm of Foley Hoag LLP, counsel of record for Defendant Petróleos de Venezuela, S.A. ("PDVSA") in the above-captioned matter. I respectfully submit this affidavit in support of PDVSA's Motion to Dismiss Plaintiff Skanga Energy & Marine Limited's ("Skanga") Second Amended Complaint.

2. Based upon my review of the files in the possession of my firm, I am familiar with the facts and circumstances set forth herein.

3. Attached hereto as Exhibit 1 is a true and correct copy of the Certificate of Incorporation of Skanga Energy & Marine Limited, dated August 16, 2004, as produced by Skanga to PDVSA in discovery.

4. Attached hereto as Exhibit 2 is a true and correct copy, in the form Skanga produced it to PDVSA, of Skanga's Statement of Share Capital and Return of Allotment of

Shares (Nigerian Corporate Affairs Commission Form CAC2) dated March 5, 2007, and Skanga's Particulars of Directors or Any Change Therein (Nigerian Corporate Affairs Commission Form CAC7) dated November 9, 2006.

5. Attached hereto as Exhibit 3 is a true and correct copy of the transcript of the Deposition of Lucky Igbinedion taken on March 31, 2014.

6. Attached hereto as Exhibit 4 is a true and correct copy of an Order of the Nigerian Federal High Court, Enugu Division, *Federal Republic of Nigeria v. Lucky Nosakhare Igbinedion*, issued on December 18, 2008. It was obtained by PDVSA's Nigerian counsel at PDVSA's request, and has been authenticated by the Nigerian Ministry of Foreign Affairs and the Embassy of Nigeria in Washington.

7. Attached hereto as Exhibit 5 is a true and correct copy of an Order of the Nigerian Federal High Court, Holden at Lagos, *Federal Republic of Nigeria v. Lucky Nosakhare Igbinedion*, issued on February 24, 2011, granting the accompanying *ex parte* originating summons submitted by A.M. Yusuf, Esq., of the Nigerian Economic and Financial Crimes Commission, to the Court, and an accompanying affidavit, which was obtained by PDVSA's Nigerian counsel at PDVSA's request.

8. Attached hereto as Exhibit 6 is true and correct copy of a judgment of the Nigerian Court of Appeal, Holden at Benin City, in the case *Federal Republic of Nigeria v. Lucky Nosakhare Igbinedion*, issued on April 9, 2014. It was obtained by PDVSA's Nigerian counsel at PDVSA's request. PDVSA's Nigerian counsel is currently taking steps to have it authenticated by the Nigerian Ministry of Foreign Affairs.

9. Attached hereto as Exhibit 7 is a true and correct copy of day 2 of the transcript of the Rule 30(b)(6) Deposition of Skanga Marine and Energy Limited through Christian Imoukhuede taken on February 13, 2014.

10. Attached hereto as Exhibit 8 is true and correct copy of a screenshot from the website domaintools.com, which demonstrates what Skanga's website (skanga.com) looked like on August 14, 2006.

11. Attached hereto as Exhibit 9 is a true and correct copy of day 1 of the transcript of the Rule 30(b)(6) Deposition of Skanga Marine and Energy Limited through Christian Imoukhuede taken on February 12, 2014.

12. Attached hereto as Exhibit 10 is a true and correct copy of Skanga's Answers to PDVSA's First Set of Interrogatories, dated July 15, 2013.

13. Attached hereto as Exhibit 11 is a true and correct copy of the transcript of the Deposition of Beatriz Dam taken on February 25, 2014.

14. Attached hereto as Exhibit 12 is a true and correct copy of a letter from Christian Imoukhuede, Managing Director of Skanga, to Asdrubal Chavez, Head of Commerce and Supply, PDVSA, dated October 31, 2006, as produced by Skanga to PDVSA in discovery.

15. Attached hereto as Exhibit 13 is a true and correct copy of an affidavit of Christopher Butler of the Internet Archive dated November 15, 2013, authenticating printouts of archived versions of PDVSA's website (<http://www.pdvsa.com>) from 2006 and 2007.

16. Attached hereto as Exhibit 14 is a true and correct copy of an affidavit of Christopher Butler of the Internet Archive dated March 7, 2014, authenticating printouts of archived versions of Arevenca's website (<http://www.arevenca.co.ve>) from 2006 and 2007, together with certified translations of selected pages thereof.

17. Attached hereto as Exhibit 15 is a true and correct copy of a document entitled “Invoice N° 322806-06” issued by Arevenca, bearing the date November 7, 2006, as produced by Skanga to PDVSA in discovery.

18. Attached hereto as Exhibit 16 is a true and correct copy of a letter from Christian Imoukhuede, Managing Director of Skanga, to Sasco Investment Ltd, dated November 23, 2006, as produced by Skanga to PDVSA in discovery.

19. Attached hereto as Exhibit 17 is a true and correct copy of a collection of wire transfer receipts as produced by Skanga to PDVSA in discovery.

20. Attached hereto as Exhibit 18 is a true and correct copy of a letter sent from Fernando Burgos, General Manager, CorpBanca New York, to the undersigned on June 26, 2013, in response to a subpoena served on CorpBanca on June 26, 2013.

21. Attached hereto as Exhibit 19 is a true and correct copy of an alleged bill of lading bearing PDVSA’s logo and dated November 24, 2006 as produced by Skanga to PDVSA in discovery.

22. Attached hereto as Exhibit 20 is a true and correct copy of an alleged certificate of quality bearing PDVSA’s logo and dated November 24, 2006 as produced by Skanga to PDVSA in discovery.

23. Attached hereto as Exhibit 21 is a true and correct copy of day 3 of the transcript of the Rule 30(b)(6) Deposition of Skanga Marine and Energy Limited through Christian Imoukhuede taken on April 3, 2014.

24. Attached hereto as Exhibit 22 is a true and correct copy of a document entitled “Invoice N° 322992-06” issued by Arevenca, bearing the date December 13, 2006, as produced by Skanga to PDVSA in discovery.

25. Attached hereto as Exhibit 23 is a true and correct copy of a document entitled “Invoice N° 322992-06” issued by Arevenca, bearing the date December 3, 2006. It was produced by Skanga to PDVSA in electronic format on February 14, 2014 at the request of PDVSA’s counsel following the conclusion of Skanga’s initial Rule 30(b)(6) deposition . Skanga has represented that this is the invoice as it was received from Arevenca.

26. Attached hereto as Exhibit 24 is a true and correct copy of a document entitled “Bill of Loading N:66333242-06” issued by Korean Tankers Maru, bearing the date December 8, 2006. It was produced by Skanga to PDVSA in electronic format on February 14, 2014 at the request of PDVSA’s counsel following the conclusion of Skanga’s initial Rule 30(b)(6) deposition. Other versions of the same document had previously been produced by Skanga; Exhibit 24 was represented to PDVSA as being the version of the document as it was received by Skanga.

27. Attached hereto as Exhibit 25 is a true and correct copy of an alleged certificate of quality bearing Arevenca’s logo and dated December 8, 2006 as produced by Skanga to PDVSA in discovery.

28. Attached hereto as Exhibit 26 is a true and correct copy of a letter from Anne Cowne, Information Officer, Lloyd’s Register Group Services Ltd., to Benjamin Guthrie, Associate, Foley Hoag LLP, dated February 28, 2014.

29. Attached hereto as Exhibit 27 is a true and correct copy of Skanga’s Answers to PDVSA’s Second Set of Interrogatories, dated September 4, 2013, accompanied by a verification dated September 27, 2013.

30. Attached hereto as Exhibit 28 is a true and correct copy of an excerpt from documents produced to PDVSA in response to a third-party subpoena served on Citibank, N.A.

on August 5, 2013. The subpoena requested “[a]ll documents for any and all accounts in the name of M.R.S. Oil and Gas Co. Ltd.”

31. Attached hereto as Exhibit 29 are true and correct copies of M.R.S. Oil & Gas Co., Ltd.’s Form of Annual Returns (Nigerian Corporate Affairs Commission Form CAC10) for the years 2006 and 2007. They were obtained by PDVSA’s Nigerian counsel at PDVSA’s request, and authenticated by the Nigerian Ministry of Foreign Affairs and the Embassy of Nigeria in Washington.

32. Attached hereto as Exhibit 30 is a true and correct copy of a letter from Arevenca to Skanga dated February 2, 2007 as produced by Skanga to PDVSA in discovery.

33. Attached hereto as Exhibit 31 is a true and correct copy of a letter from S.A.A. Adineran, the Nigerian Ambassador to Venezuela, to PDVSA, dated May 15, 2007, as produced by Skanga to PDVSA in discovery.

34. Attached hereto as Exhibit 32 is a true and correct copy of a letter from Christian Imoukhuede, Managing Director of Skanga, to PDVSA, dated May 23, 2007, as produced by Skanga to PDVSA in discovery.

35. Attached hereto as Exhibit 33 is a true and correct copy of a letter from Christian Imoukhuede, Managing Director of Skanga, to the Ambassador of Venezuela in Nigeria, dated May 28, 2007, as produced by Skanga to PDVSA in discovery.

36. Attached hereto as Exhibit 34 is a true and correct copy of a letter from Christian Imoukhuede, Managing Director of Skanga, to the Venezuelan Vice Minister of Foreign Affairs for Africa, dated June 7, 2007, as produced by Skanga to PDVSA in discovery.

37. Attached hereto as Exhibit 35 is a true and correct copy of a letter from Christian Imoukhuede, Managing Director of Skanga, to S.A.A. Adineran, Ambassador of Nigeria in Venezuela, dated June 7, 2007, as produced by Skanga to PDVSA in discovery.

38. Attached hereto as Exhibit 36 is a true and correct copy of a letter from S.A.A. Adineran, Ambassador of Nigeria to Venezuela, to Minister Rafael Ramirez, Minister of Energy & Mines of Venezuela, dated June 14, 2007, as produced by Skanga to PDVSA in discovery.

39. Attached hereto as Exhibit 37 is a true and correct copy of a letter from S.A.A. Adineran, Ambassador of Nigeria to Venezuela, to Minister Nicolas Maduro, Minister of Foreign Affairs of Venezuela, dated June 14, 2007, as produced by Skanga to PDVSA in discovery.

40. Attached hereto as Exhibit 38 is a true and correct copy of a letter from S.A.A. Adineran, Ambassador of Nigeria to Venezuela, to Minister Hugo Cabezas, Minister of the Presidential Secretariat of Venezuela, dated June 14, 2007, as produced by Skanga to PDVSA in discovery.

41. Attached hereto as Exhibit 39 is a true and correct copy of a letter from S.A.A. Adineran, Ambassador of Nigeria to Venezuela, to Vice Minister Reinaldo Bolivar, Vice Minister of Foreign Affairs for Africa of Venezuela, dated June 14, 2007, as produced by Skanga to PDVSA in discovery.

42. Attached hereto as Exhibit 40 are true and correct copies of Skanga's Form of Annual Returns (Nigerian Corporate Affairs Commission Form CAC10) for the years 2006, 2007, and 2008. They were obtained by PDVSA's Nigerian counsel at PDVSA's request, and authenticated by the Nigerian Ministry of Foreign Affairs and the Embassy of Nigeria in Washington.

43. Attached hereto as Exhibit 41 is a true and correct copy of the Expert Declaration of Manuel A. Gomez, Skanga's Venezuelan law expert. It was served on PDVSA on January 15, 2014.

44. Attached hereto as Exhibit 42 is a true and correct copy of the Affidavit of Mojisola Jawando dated April 16, 2014.

45. Attached hereto as Exhibit 43 is a true and correct copy of PDVSA's Answers to Skanga's First Set of Interrogatories. It was served on Skanga on August 26, 2013, and verified by Humberto Ferrín on August 28, 2013.

46. Attached hereto as Exhibit 44 is a true and correct copy of an excerpt of MIGENE GONZÁLEZ-WIPPLER, *LEGENDS OF SANTERÍA: A NEW, EXPANDED, AND REVISED PUBLICATION OF TALES OF THE ORISHAS* (1994).

47. Attached hereto as Exhibit 45 is a true and correct copy of an excerpt of JOSEPH M. MURPHY, *SANTERÍA: AN AFRICAN RELIGION IN AMERICA* (1988).

Sworn to on this 17th day of April, 2014 under the pains and penalties of perjury.

/s/ Lawrence H. Martin
Lawrence H. Martin